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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) RED-67A	
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		First Named Inventor <u>T. H. Norman</u>	
		Art Unit <u>2872</u>	Examiner <u>J. L. Pritchett</u>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
I am the		<u>Donald C. Lucas</u> Signature <u>Donald C. Lucas</u> Typed or printed name	
<input type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)			
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>31,275</u>		<u>212-661-8000</u> Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>September 14, 2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: T. H. NORMAN :
Art Unit: 2872
Appln. No. : 10/018,538 :
Examiner: J.L. Pritchett
Filed : March 11, 2002 :
Dated : September 14,
For : VEHICLE REAR VIEW : 2006
MIRROR

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REASONS FOR REVIEW

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

S i r:

Applicant submits that the Examiner made clear error by ignoring the meaning of the term "fixed" as used in Claim 18. The Examiner has interpreted "fixed" to read on an "adjustable" mechanism, while Applicant has taken the position that the term "fixed" means non-adjustable. More detail remarks follow.

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LUCAS & MERCANTI, LLP

By: Donald C. Lucas
Donald C. Lucas, Reg. # 31,275

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CLAIM STATUS

Claims 18-31 are pending. Claim 18 is an independent claim upon which all other claims ultimately depend.

INVENTION

Claim 18 recites a vehicle rear view mirror comprising a housing, a mirror lens and a frame for holding the mirror lens inside the housing. The frame is attached to the housing by a snap fit and the frame and the mirror lens are located wholly within a rim portion of the housing and are in a "fixed" position in the housing.

PRIOR ART REJECTIONS

Claims 18-22 and 24-31 stand rejected as unpatentable over Lang '644 in view of Repay. Claim 23 stands rejected as unpatentable over Lang '644 in view of Repay and further in view of Grissen.

Lang '644 teaches a vehicle rear view mirror with a frame attached to the housing by a snap fit, in a fixed position, but both the mirror lens and the frame extend beyond the rim portion of the housing.

Repay teaches a vehicle rear view mirror where the frame and the mirror are wholly located within the housing but the frame and the mirror lens are adjustable.

The Examiner replaced the fixed frame and the mirror lens of Lang '644 with the adjustable mirror lens and frame of Repay. The Examiner takes the position that the mirror lens and the frame of Repay are fixed because Repay has a vibration dampener (Element 38) which stabilizes the mirror.

CLEAR ERROR OF THE EXAMINER

The Examiner made a clear error by reading the claim limitation of "fixed" to cover "an adjustable" mechanism. Repay's frame and mirror lens are adjustable, see Repay, Column 2, line 24. To replace the frame and the mirror lens of Lang '644 with a frame and mirror lens of Repay results in an adjustable mirror.

In contrast, the frame and the mirror lens of the present Invention is "fixed" in the housing, albeit, that it is fixed with a snap fit which allows the frame and the mirror lens to be removed from the housing, but not to be adjusted in the housing.

The Examiner went too far in his reasoning that:

Repay's mirror has a vibration dampener,
the vibration dampener stabilizes the frame,
the definition of fixed means to make stable,
fix and fixed mean the same thing;
therefore, Repay's mirror and frame are
fixed in the housing.

Such reasoning is in error because Repay, on his face, teaches that his frame and mirror lens is adjustable, not fixed.

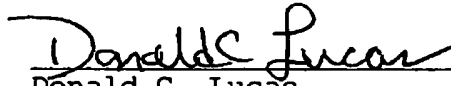
Second, stabilizing a mirror against vibration does not mean that the frame and mirror are fixed in their position. The Examiner is correct that "fix" means to make stable, however, the Examiner is wrong in equating "fix" with "fixed". Fixed is the past participle of fix and means that an item is permanently and definitely located and stationary, immovable, i.e. not adjustable, see Applicant's Response filed March 27, 2006, page 8, line 8 through page 9, line 13 and the dictionary definitions of "fix" and "fixed" as attached to the March 27, 2006 Response.

Respectfully, the Examiner has made clear error by replacing the fixed mechanism of Lang '644 with an adjustable mechanism of Repay and then taking the position that the adjustable mechanism of Repay is not adjustable because it has a dampening means. An adjustable element with a dampening means does not equate to an element that is non adjustable. Respectfully, the Examiner has committed clear error.

Respectfully submitted,

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